WTCI-237-P

THE PORT OF NEW YORK AUTHORITY

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THE WORLD TRADE CENTER

FIFTH SUPPLEMENTAL AGREEMENT
TO
CONTRACT WTC-113.00

SPRAY-ON FIREPROOFING

TOWER 1

AUGUST 1970

PLAINTIFF'S EXHIBIT
Px-622

0012167

THE PORT OF NEW YORK AUTHORITY

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0012171

THE PORT OF NEW YORK AUTHORITY
111 Eighth Avenue - at 15th Street, New York, N.Y. 10011

World Trade Department

Guy F. Tozzoli, Director Telephone (212) 620-8171

October 14, 1970

Mario & DiBono Plastering Co., Inc.
370 Northern Boulevard
Great Neck, New York 11021

Attention: Mr. Louis DiBono

Re: The World Trade Center - Contract
WTC-113.00 - Spray-On Fireproofing -
Tower B - Fifth Supplemental Agreement

Gentlemen:

The Port of New York Authority hereby accepts your proposal dated September 17, 1970 on the Fifth Supplemental Agreement to the captioned Contract, subject to your confirming the following:

1. The Agreement consists of the Contract Booklet covering the Fifth Supplemental Agreement to Contract WTC-113.00, all documents specifically referred to in the above Contract Booklet for the Fifth Supplemental Agreement including the papers required to be submitted with the proposal dated September 17, 1970 and this letter of acceptance which shall control over any of the foregoing. The Agreement as so defined shall constitute the complete and exclusive statement of the terms of the agreement between the parties, and the Agreement may not be explained or supplemented by course of dealing, usage of trade or course of performance. All other correspondence and communications of any form or nature whatsoever regarding said Agreement not specifically mentioned in the definition of Agreement above are unconditionally withdrawn and shall be regarded as never transmitted.

2. On page 9, in the clause entitled "General Agreement", delete in its entirety the first sentence of the first paragraph of subclause A and substitute in lieu thereof the following:

"The Contractor agrees to sell and the Authority agrees to purchase the permanent materials necessary or proper for or incidental to the installation of spray-on fireproofing to all the Telco trusses located in the 10th, 11th and 12th floor ceilings of Tower B of The World Trade Center".

3. On page 10, in the clause entitled "General Agreements", delete in its entirety the first sentence of the first paragraph of subclause B and substitute in lieu thereof the following:

"The Contractor agrees to install the spray-on fireproofing to all the Telco trusses located in the 10th, 11th and 12th floor ceilings of Tower B of The World Trade Center".

4. On page 26, in the third line of clause 10 entitled "Time for Commencement of Work" delete "Tower A" and substitute "Tower B" in lieu thereof.

5. On page 56, in the clause entitled "Construction Required by the Specifications", delete in its entirety the first paragraph on the page and substitute in lieu thereof the following:

"These Specifications relate generally to applying spray-on fireproofing to all the Telco trusses located in the 10th, 11th and 12th floor ceilings of Tower B of The World Trade Center".

6. On page 56, in the clause entitled "Construction Required by the Specifications", delete in its entirety Item A.1 and substitute in lieu thereof the following:

"The Contractor shall furnish and apply spray-on fireproofing to all the Telco trusses located in the 10th, 11th and 12th floor ceilings of Tower B".

7. On page 58, at the end of the paragraph entitled "B. Certain Items Excluded" add the following new item:

"d) Spray-on fireproofing of the standard trusses required to be fabricated by the fabricated steel contractor under Contract WTC-221.00 and previously specified in Contract WTC-113.00 to be located in the 10th, 11th and 12th floor ceilings of Tower B".

8. On page 68, delete Contract Drawings A-B-39, A-B-41 and A-B-43 from the listing of Contract Drawings and substitute the following new Contract Drawing in lieu thereof:

"A-B-44	13th to 16th Floor Plan	9/29/69"

9. On page 87, delete Drawing No. A-B-44 from the listing of Architectural Available Documents and add the following Drawings in lieu thereof:

"A-B-39	10th Floor Core Plan	5/22/70
A-B-41	11th Floor Core Plan	5/22/70
A-B-43	12th Floor Core Plan (dated 8/12/69)	- "

10. On page 134, after the word "required" in the first line of paragraph 3 of Clause 33 entitled "Spray-On Work" add the words "masking or".

11. On page 137, in the clause entitled "Spray-On Material", delete in its entirety paragraph No. 11 and substitute in lieu thereof the following:

> "11. Cafco Mark II (hard finish) overspray shall be used to finish all Telco trusses on the ceilings of the 10th, 11th and 12th floors of Tower B".

The Port Authority elects not to require you to furnish a Performance and Payment Bond covering Sale and Work under the Fifth Supplemental Agreement.

The foregoing acceptance is based upon your indicating in the space provided below your confirmation and concurrence with the above and your reaffirmation of each and every warranty contained in the clause of the Fifth Supplemental Agreement's Form of Contract entitled "Contractor's Warranties". Such reaffirmation is applicable to any negotiations, meetings, discussions, communications, statements, representations and promises occurring through the date of such confirmation and concurrence. Such concurrence and confirmation shall be indicated by signing the enclosed copy of this letter in the space provided below and returning it, addressed to my attention.

CHAPTER II

SPRAY-ON FIREPROOFING

32. MATERIALS

A. Materials shall be the following type of spray-on product, mixed and applied in strict accordance with the manufacturers' instructions:

1. Fireproofing materials shall consist of asbestos free fibers and shall be CAFCO BLAZE SHIELD Type D C/F as manufactured by United States Mineral Products Co.

2. The materials shall be Class "A" fire resistant meeting the requirements of Federal Specifications SS-A-118B, shall have a minimum penetration hardness of 150 for a 1/4 deep penetration with a .05 square inch needle.

3. The Contractor shall apply CAFCO MARK II hard finish to all structural steel required to be fireproofed.

4. All manufactured materials shall be the standard products of well-known manufacturers, shall be subject to the Engineer's approval, shall bear the manufacturer's stamp or tag as to weight and material contained within the package or container and shall be delivered to the construction site in unopened, sealed condition.

33. SPRAY-ON WORK

1. Materials that have become damp or wet because of exposure to water shall be removed from the construction site. All materials shall be kept dry until ready for use.

2. Materials which may have adverse effects on adjacent finished materials shall not be applied, unless the Contractor shall properly mask or screen such areas.

3. The Contractor shall furnish and install all required masking or screening as part of the work of the Contract.

4. The Contractor shall furnish to the Engineer certification from the manufacturer as to his qualifications in applying this fireproofing material. Additional certification as to instructions, recommendations, and requirements shall be furnished by the Contractor to the Engineer.

34. PRODUCT QUALIFICATIONS

1. The manufacturer of the material shall have the approval for the applications specified. The manufacturer shall provide laboratory test data for approval. These certifications shall be submitted to the Authority by the manufacturer through the Contractor.

2. Surfaces upon and against which the fireproofing is applied shall be prepared to produce a satisfactory and permanent bond. Such surfaces shall be clean and dry, and shall be free from dirt, dust, grease, oil, loose and friable material and other materials which would prevent satisfactory and permanent adhesion of the insulation and fireproofing, and the Contractor shall prepare the surfaces so as to conform to such requirements of this paragraph.

3. The fireproofing when completed shall be free from seams, staging breaks, holes, spalls, cracks, flaking and dusting action.

4. Work under this Contract shall be properly co-ordinated with the work of all other trades, where such co-ordination is required.

5. Sprayed-on fireproofing materials shall be kept clear of all fire damping equipment, piping, mechanical and electrical equipment, and wherever possible shall be applied prior to installation of such equipment.

6. Sprayed-on fireproofing as applied under the Contract shall be unaffected by water as tested and reported in CAFCO Technical Bulletin C-940 February 9, 1968 on construction site. The material shall resist the normal abuse resulting from the construction work of subsequent trades, shall not crack, craze, dust or disintegrate and shall adhere to the base surfaces with sufficient strength to insure against any loosing and falling off of applied material.

35. TEST REQUIREMENTS

Sprayed-on fireproofing and thermal absorbing materials shall meet the following requirements, and the Contractor shall submit certified statements from the manufacturer attesting to all such conformance with requirements.

1. All material shall have been tested by Underwriters Laboratories in conformance with the testing procedure of A.S.T.M. E 119.

2. Dry Bond Strength shall test at a minimum of 100 p.s.f. in conformance with A.S.T. M. C297.

   a. Materials shall meet the requirements of GS.A. Specifications PB5-4-0920 Section 5.1.3 for bond impact test, and Section 5.1.2 for deflection.

3. Compressive Strength: Materials with a minimum density of up to 11 lbs. per cubic foot shall deform not more than 5% under a loading of 100 lbs. p.s.f. and not more than 10% under a loading of 200 lbs. and not more than 25% under a 600 p.s.f. loading.

4. Erosion shall not occur under air velocities up to 2000 f.p.m.

36. SPRAY-ON MATERIAL

1. Fireproofing and other spray-on material shall be applied with manufacturer-approved equipment. Mixer shall be clean, hoppers and pumps shall be free of particles or previously used materials, hose shall be tightly coupled, free of kinks and flushed out with water. Caked material shall be removed from the hose nozzle.

   a. Mixers shall be of adequate capacity for the size and output of spray machines with which they will be used.

2. The wet density of applied materials shall not exceed the maximum density per cubic foot as recommended by the manufacturer.

3. The directions of the approved manufacturer for the use of the accepted brands of all materials are hereby incorporated in and made part of the Specifications.

4. All manufactured materials shall be mill-mixed and shall be delivered to the site in original packages or containers bearing the manufacturer's labels and the Underwriters Laboratories label. All material shall be properly stored and protected against damage.

5. Ventilation shall be provided to properly dry the fireproofing during and subsequent to its application. If glazed sash is not in place and building is subjected to temperature differentials of 20 degrees F. or more, openings shall be screened with material by the Contractor.

6. All materials shall be applied in accordance with the manufacturer's printed instructions, and fire test report information, employing equipment as recommended by the manufacturer of the materials being used.

7. Only experienced applicators shall be employed in the installing of all materials.

8. Except as otherwise shown and noted on the Contract Drawings, flanged steel columns and beams shall be fireproofed on all sides of flanges and webs following the contours thereof. Spray-on material shall be applied directly on steel in all cases including "box" type beams and columns.

9. If fireproofing material intended to be used requires the use of dust control equipment or protection during application, the Contractor shall furnish, install, operate and maintain such equipment or protection.

10. Where spray fireproofing abuts members fireproofed with plank or masonry as shown on details, spray fireproofing shall be applied after plank or block is installed to insure a perfect seal between spray-on and plank or masonry or the Contractor shall thereafter provide and furnish a perfect seal as aforesaid.

11. Cafco Mark II (hard finish) overspray shall be used to finish all Telco trusses on the ceilings of the 10th, 11th and 12th floors of Tower B.

37. PATCHING

Where spray-on fireproofing is required to be applied prior to the erection of gypsum plank, masonry or other permanent work, the Contractor shall return, when directed by the Engineer, to patch and form a perfect seal between gypsum plank, masonry and other permanent work and the spray-on fireproofed surfaces.

1. Each area of the Work will be inspected by the Engineer during and immediately after completion of the Work in such area. The Contractor shall perform all necessary repairing and patching at his own expense, where, when, and as directed by the Engineer where such repairs are required due to the action of the Contractor.

38. WORKMANSHIP

1. The Contractor shall completely shield adjacent finished materials including all aluminum or other ornamental metal, cut stone, and all other finished Work from splashing by droppings and misdirected sprayed-on fireproofing material being applied under the Contract. Material which may splash against the ornamental metal, cut stone, and other exposed finished Work shall be immediately cleansed from the metal, stone or other material with water by the Contractor.

2. Maintaining such adjacent finished materials free from fireproofing material shall be the responsibility of the Contractor. Adjacent and other materials damaged due to improper protection or negligence on the part of the Contractor shall be replaced by him at his own expense.

3. The Contractor shall coordinate with all other trades as may be directly or indirectly involved in the Work and shall schedule his Work in such manner as to avoid delay in the progress of the Work.

4. The sprayed-on fireproofing and sprayed-on insulation, when completed, shall be free from seams, staging breaks, holes, spalls, cracks, flaking and dusting action, and other defects of any kind.

39. CLEANING AND PROTECTION

1. Upon completion of the application of each coat of spray-on material, on each respective floor, or in each respective area, as may be directed by the Engineer, the Contractor shall remove all debris from floors, walls, and other surfaces, and shall collect and deposit such debris in containers which shall be provided by the General Contractor on each floor. Debris will be removed by others.

2. During the spray-on operations, floors beneath and around machines, water containers, and mixing boxes shall be protected with waterproofed coverings. All metal and other Work adjoining the plastering and spray-on operations, including concrete floors, shall be protected and shall be cleansed of all spray-on material and any soiling as may occur, immediately upon completion of the finish coats.

3. Upon completion of the Work in any areas, or on any floors, the area or floor shall be scraped and left broom-clean. All equipment shall be removed when and as directed by the Engineer.